

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRITTANY RENEE GIBSON,
Petitioner,
v.
MICHAEL PALLARES, WARDEN,
Respondent.

No. 2:22-cv-1152 TLN AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. (“Gibson II”). Petitioner has paid the filing fee. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. Recently, respondent was ordered to file a response to the petition. Gibson II, ECF No. 9. Petitioner has also been directed to file a new consent / decline form. Id. at ECF No. 13.

Petitioner is also a litigant in the earlier-filed Gibson v. State of California, No.: 2:22-cv-0844 KJN P (“Gibson I”). For the reasons stated below, the court will vacate its recent orders in this action. In addition, it will direct the Clerk of Court to transfer the filing fee petitioner has paid in this matter to the Gibson I case. It will also direct that this case be closed pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

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On July 15, 2022, petitioner timely paid the filing fee in this case as she had been ordered to do. See Gibson II, ECF No. 5 (court order). Thereafter, on July 20, 2022, respondent was ordered to file a response to the petition. Gibson II, ECF No. 9. That same day, petitioner filed a request to have a magistrate judge preside over her case. Id., ECF No. 12. On July 26, 2022, the court construed the request as a motion to withdraw her earlier-filed consent / decline form (see Gibson II, ECF No. 7) which was granted, and petitioner was ordered to file a new consent / decline form within fourteen days. Gibson II, ECF No. 13.

On July 29, 2022, in the earlier-filed Gibson I, petitioner submitted a letter to the court. Gibson I, ECF No. 8. She explains that the filing process has been confusing to her and that she would like her case to proceed under Gibson I.¹ Id. The court will accommodate petitioner so that she may proceed solely on her first-filed petition.

Accordingly, IT IS HEREBY ORDERED that the court VACATES the following:

1. Its July 20, 2022, order directing respondent to file a response to the petition. ECF No. 9; and

2. Its July 26, 2022, order directing petitioner to complete and file a new consent / decline form in this action. ECF No. 13.

IT IS FURTHER ORDERED that the Clerk of Court shall:

1. TRANSFER the filing fee paid by petitioner in this matter on July 15, 2022, to the Gibson v. State of California, No. 2:22-cv-0844 KJN P matter;

2. UPDATE relevant court records and the docket in Gibson v. State of California, No.: 2:22-cv-0844 KJN P to reflect the transfer;

3. Serve a copy of this order on Tami Krenzin, Supervising Deputy Attorney General; and

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¹ Gibson I had been closed on June 22, 2022, based on petitioner's voluntary dismissal. Gibson I, ECF Nos. 4-5. However, on July 13, 2022, it was reopened at petitioner's request. Id. at 6-7.

1 4. CLOSE this case. See Fed. R. Civ. P. 41(a)(1)(A)(i).

2 DATED: August 4, 2022

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4 ALLISON CLAIRE
5 UNITED STATES MAGISTRATE JUDGE
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